



November 26, 2014

Federal Communications Commission
Office of the Secretary
Marlene H. Dortch
445 12th Street SW
Washington, DC 20554

Subject: **CC Docket 02-6, Request for Review/Waiver
Funding Commitment Decision Letter Appeal Year 2014**

Applicant Name: Saddleback Valley Unified School District
Billed Entity Number: 143776
Funding Year: 2014
Form 471 Application Number: 936635
Funding Request Number(s): 2613198
Service Provider: Haiku Learning Systems, Inc.
Service Provider SPIN: 143034807

Dear Sir or Madam:

INTRODUCTION

The Saddleback Valley Unified School District appeals the denial of Universal Service Administrative Company (USAC) to deny the Appeal of the 2014 FCDL denying funding for FRN 2613198 and requests that funding be restored to FRN 2613198.

BACKGROUND

Fall 2012	District conducts a competitive bidding process for a web hosting company for the District's Websites and chooses Haiku as the most cost effective. District uses the 81% eligibility as part of its decision.								
March, 2014	District applies for funding of Haiku Learning Systems with the following breakdown: <table><tr><td>Total Contract Amount</td><td>\$ 149,600.00</td></tr><tr><td>Ineligible Portion (19%)</td><td>\$28,424.00</td></tr><tr><td>Web Hosting Eligible Portion (81%)</td><td>\$121,176.00</td></tr><tr><td>Total FRN Application Amount</td><td>\$121,176.00</td></tr></table>	Total Contract Amount	\$ 149,600.00	Ineligible Portion (19%)	\$28,424.00	Web Hosting Eligible Portion (81%)	\$121,176.00	Total FRN Application Amount	\$121,176.00
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Ineligible Portion (19%)	\$28,424.00								
Web Hosting Eligible Portion (81%)	\$121,176.00								
Total FRN Application Amount	\$121,176.00								
August 6, 2014	District receives an FCDL for FRN 2613198 denying funding								
September 17, 2014	District files appeal of Funding Commitment Denial								
October 13, 2014	USAC denial FCDL Appeal								

The denial of appeal contained the following justification:

- Your FCC Form 471 application included costs for the following ineligible products and/or services: Haiku Learning Management Systems. Accordingly, your funding request was denied. In your appeal, you did not show that USAC's determination was incorrect. Consequently, your appeal is denied.
- FCC rules provide that funding may be approved only for eligible projects and services. See 47 C.F.R. secs. 54.502. The USAC website contains a list of eligible products and services. See Eligible Services List posted in the Reference Area of the SLD section of the USAC website. FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly. See 47 C.F.R. sec. 54.504(b). The FCC's Aiken County Public Schools Order directed USAC to permit the applicant 15 calendar days from the date of receipt of notice in writing by USAC to revise its funding request to remove the ineligible services or allow the applicant to provide additional documentation to show why the services are eligible. See Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools, Aiken, South Carolina, et.al., Schools Libraries Universal Service Support Mechanism, File Nos. SLD-397612, et al., CC Docket No. 02-6 Order, 22 FCC Rcd 8735, FCC 07-61 para. 11 (May 8, 2007)

Saddleback appeals the FCDL denial on the grounds that

1. The USAC denial does not explain how Haiku, who provides the District with web hosting for its sites, went from 81% eligibility to 0% eligibility.
2. The District was not given a chance to break out the additional ineligible portion.
3. Haiku is an eligible web-hosting package and the District cost-allocated out the non-eligible functionality.
4. Haiku submitted their product for cost-allocation, participated in a full and open review process with USAC, and received a determination that their product was 79% eligible, beginning in Funding Year 2011. USAC provided no specifics as to why that determination was in error, thus making it very difficult to prepare an appeal.
5. All of the features that were determined to be eligible in 2014 have been cost allocated out of the District's 471 application. All of the features that were determined to be eligible in 2011 are still listed in the FY 2014 Eligible Services List
6. A review of the Eligible Services List of 2014 and the 6th Report and Order provides no basis for the denial of the eligible portions of the Haiku Contract.

Per the Eligible Services List of 2014:

Ineligible charges related to web hosting

- Features that facilitate the ability to communicate, such as blogging, e-mailing over a school or library's hosted website, discussion boards, and services that may facilitate real-time interactive communication such as instant messaging or chat, are not considered eligible for E-rate support as standalone services under web hosting.
- Applicants may not request funding for web hosting services from multiple providers.
- Costs attributable to the creation or modification of information, or design such as a web site creation fee or content maintenance fees.
- Content supplied as part of a web hosting service created by third-party vendors or the web hosting service provider itself and any features or software involving data input or

retrieval other than the provision of applicant-created content for an educational purpose (e.g., teacher web pages or blogs).

- The parts of a web hosting service including, but not limited to, any portion of tools, capabilities or integration with other systems such as: Student Information Systems (SIS); databases; student attendance or grades or grade management; course scheduling; tests or testing systems; on-line/interactive education systems; and learning/education management systems. (An eligible web hosting service will also not include support for the applications necessary to run online classes or collaborative meetings).

The Haiku contract is attached which shows that only 19% of the services fall into the ineligible category.

The District has complied and cost allocated out those items that are NOT eligible per the vendor's calculations of 19% ineligible.

There is **NO** wording in the Eligible Services List that says that learning/education management systems are not eligible. The Eligible Services simply lists those elements of a web hosting service that are ineligible:

-Ineligible charges related to web hosting.....

"The parts of a web hosting service including, but not limited to, any portion of tools, capabilities or integration with other systems such as: Student Information Systems(SIS); databases; student attendance or grades or grade management; course scheduling; tests or testing systems; on-line/interactive education systems; and learning/education management systems."

The Eligible Services List refers to the 6th Report and Order. At no point in the 6th Report and Order does it indicate that a web hosting service that contains ineligible items is 100% ineligible. In fact, the 6th Report and Order states that "Web hosting, as the commenters have shown, is an example of a service that can provide a substantial educational impact for a relatively small cost." The Report goes further and states "We remind applicants, however, that content – including content created by third-party vendors, and any features involving data input or retrieval – including searching of databases for grades, student attendance files, or other reports – remains ineligible." Again, it specifies that those parts of the service are ineligible. At no point is there any indication of 100% ineligibility of web hosting services.

I have included the submission by Haiku to USAC in 2011 that outlines the % of their product that is eligible and that which is not eligible. At that time the eligible services accounted for 79%. Since 2011 several districts have been funded for Haiku services.

The District was funded for Haiku on September 25, 2013 and continued with their contract with Haiku for the 2014-15 funding year. The District continued with Haiku for the 2014-15 school year due to having received the funding commitment letter for the previous year, as their contract was an extendable contract. The COMAD for 2013 funding was not issued until May 1, 2014, after the 2014 window closed. The decision to continue with Haiku would have been reevaluated if they had not been funded before the window closed for 2014. Rescinding funding commitments wreaks havoc with the procurement process at both the local, state and national level.

We request that the FUNDING COMMITMENT APPEAL DENIAL be rescinded and that the District be funded for their full request.

For all questions regarding this appeal please contact:

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Respectfully Submitted,

A handwritten signature in cursive script that reads "Karen Hall".

Karen Hall, Consultant E-Rate Services
CSM

Attachment: FCC Haiku Saddleback Valley USD FCDL Appeal
SVUSD USAC's Denial of 2014-2015 FCDL Appeal
SVUSD Haiku Contract